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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,429	10/18/2000	Joseph Tyler	1932.2005-002	4918

21005 7590 05/02/2003

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EXAMINER

GEORGE, KONATA M

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 05/02/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/691,429

Applicant(s)

TYLER ET AL.

Examiner

Konata M. George

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 2-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.                      6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 2-23 are pending in this application.

#### ***Action Summary***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Specification***

2. The use of the trademark Renagel ® on page 3 of the specification has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

#### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on October 2, 2001 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.
4. The rejection of claims 2-18 under 35 U.S.C. 103(a) over Holmes-Farley et al. in view of John et al. is hereby withdrawn.
5. The rejection of claim 22 under 35 U.S.C. 103(a) over Holmes-Farley et al. in view of the instant specification is hereby withdrawn.

***R sponse to Arguments***

6. Applicant's arguments with respect to claims 2-18 and 22 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandeville, III et al. (US Pat. No. 6,264,937 B1) in view of John et al. (US Pat. No. 4,302,440).

Mandeville, III describes a composition which can be formulated into an oral dosage i.e. tablets comprising a fat-binding polymer (col. 11, lines 21-24). The fat-binding polymers of the prior art can include poly vinylamine, poly allylamine, poly diallylamine, etc. (col. 4, lines 25-27). These polymers can be substituted or unsubstituted (col. 4, lines 39-42) or they could be linear or crosslinked wherein such cross-linking agents can be epichlorohydrin (col. 5, lines 37-55). Table 1, Column 12, lines 60 through col. 13, lines 1-15 describes examples of epichlorohydrin crosslinked polymers. Example 3, column 12, lines 21-58 describe a method of producing a crosslinked poly (allylamine) HCL. The prior art does not disclose a coating applied to the tablet.

Art Unit: 1616

John describes a coating for tablets comprising an aqueous coating comprising hydroxypropyl methylcellulose and a plasticizer (abstract). The reasons for coating tablets is to improve the ease of swallowing tablets, reducing the incidences of epigastric distress, providing a tablet readily disintegrable in the stomach, etc. (col. 4, lines 42-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the aqueous coating of John with the tablet of Mandeville, III. Although, Mandeville, III does not recited a coating applied to the tablet, adding a coating to the tablet would have been obvious to one of ordinary skill in the art as recited in Column 4, lines 42-51 of John et al.

### ***Conclusion***

8. Claims 2-22 stand rejected.
9. Claim 23 is allowed.

### ***Telephone Inquiries***

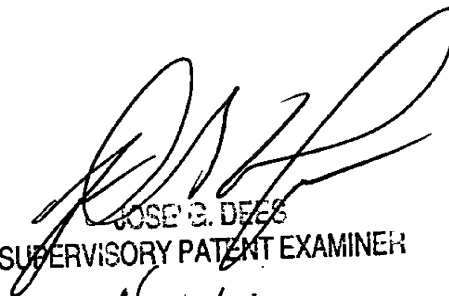
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (703) 308-4646. The examiner can normally be reached from 8AM to 5:30PM Monday to Thursday, and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, José Dees, can be reached at (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and for After Final communications.

Art Unit: 1616

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Konata M. George

  
JOSE G. DEES  
SUPERVISORY PATENT EXAMINER  
1616